

**Henry P. Roybal**  
Commissioner, District 1

**Miguel M. Chavez**  
Commissioner, District 2

**Robert A. Anaya**  
Commissioner, District 3



**Kathy Holian**  
Commissioner, District 4

**Liz Stefanics**  
Commissioner, District 5

**Katherine Miller**  
County Manager

**DATE:** December 29, 2015

**TO:** Board of County Commissioners

**FROM:** John Lovato, Development Review Specialist Senior

**VIA:** Katherine Miller, County Manager  
Penny Ellis-Green, Growth Management Director  
Vicki Lucero, Building and Development Services Manager  
Wayne Dalton, Building and Development Services Supervisor

*[Handwritten signatures and initials]*  
JL  
VZ for PEG  
VZ  
VZ for WD

**FILE REF.:** CDRC CASE # V 15-5270 Kathleen Kaupp Variance

**ISSUE:**

Kathleen Kaupp Applicant, Michael Henry, Agent, request a variance of Article III, Section 2.3.6b.2, Height restrictions for dwellings or residential accessory structures, of Santa Fe County Ordinance No. 1996-10 (Code) and Section 3.8.2.d of Ordinance No. 2000-13 Tesuque Community Zoning District, Height on slopes and ridgetops, to allow a 365 square foot accessory structure addition to exceed 14 feet on a ridgetop on 2.82 acres.

The property is located at 7 Thorpe Way, within the Bishops Lodge Estates Subdivision, within Section 6, Township 17 North, Range 10 East (Commission District 1)

**Vicinity Map:**



## SUMMARY:

On November 19, 2015, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of the requested variance with a 4-2 voice vote. (Minutes attached as Exhibit 1)

The subject lot is part of the Bishops Lodge Estates Subdivision which was created in 1988, and is recognized as a legal lot of record. Currently, there is an existing residence, garage, and studio on the property. The residence is 4,638 square feet and was permitted in 1999. In 2005, the Applicant obtained a permit for a 1,215 square foot garage/studio. The residence was approved at 14' in height from finished floor grade, and the garage/studio was approved at 14' in height from final cut grade.

The Applicant wishes to construct a 365 square foot addition to the existing garage/studio for storage. The existing studio and proposed addition is located on a ridgetop. The proposed addition is 18' in height with a flat roof and located on the western portion of the property. The maximum allowable height for ridgetops is 18' feet for a pitched roof and 14' feet for a flat roof. The Applicants property drops in elevation on the western portion of the property. Therefore, the Applicant is seeking a variance of the height requirements in order to meet the current height of the existing structure.

The Applicant states, a variance is needed due to the topography of the land and wants the existing structure and proposed addition to remain on one level. The Applicant states that having steps is difficult and would make it impossible to access.

Staff has inspected the site and has determined there is another location on the north side of the garage/studio to construct the proposed addition to meet height requirements. The Applicant has chosen to place the addition on the southwest portion of the property with greater slopes. Therefore, the Applicant is requesting a variance.

Article II, § 3, Variances, of the Code states: Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance. (Exhibit 5)

Article II, Section 3.1 concludes that, "[i]n no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified."

Article II, Section 3.2 states, "[i]n no case shall any variation or modification be more than a minimum easing of the requirements."

Article III, § 2.3.6b2, Height Restrictions for Dwellings or Residential Structures, of the Code states: On ridgetops as defined in Article X of the Code, only one story buildings are allowed. On ridgetops, the height of an dwelling or residential accessory structure shall not exceed fourteen feet (14'), except one story pitched roof style buildings may be allowed a maximum height of eighteen feet (18') provided such roof can be screened from a public way and pursuant to a site visit and approval of the Code Administrator. (Exhibit 6)

Section 3.8.2.d, Ordinance No. 2000-13 the Tesuque Community Zoning District, Height on slopes and on Ridgetops, states: On ridgetops as defined in this Section, only one story buildings are allowed and the height of any structure shall not exceed fourteen feet (14'). Chimneys may extend three feet (3') beyond the height limitation.

The owner of the Property, Kathleen V. Kaupp, Trustee, acquired the Property by warranty deed recorded as instrument # 1766503 in the Santa Fe County Clerk's records dated June 9, 2015. (Exhibit 3)

Notice requirements were met as per Article II § 2.4.2, of the Code. In advance of a hearing on the Application, the Applicant provided a certification of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for twenty-one days on the property, beginning on October 22, 2015. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on October 29, 2015, as evidence by a copy of that legal notice contained in the record. Receipts for certified mailing of notices of the hearing were also contained in the record for all adjacent property owners. (Exhibit 4)

**This Application was submitted on September 9, 2015**

**On November 19, 2015, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of the requested variance with a 4-2 voice vote**

**Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.**

**APPROVAL SOUGHT:** Variance of Article III, § 2.3.6b.2, Height Restrictions for Dwellings or Residential Accessory Structures, of the Code and Section 3.8.2.d, Ordinance No. 2000-13 Tesuque Community Zoning District, Height on slopes and on Ridgetops, to allow a 365 square foot addition to be 18' in height.

**GROWTH MANAGEMENT AREA:** El Norte, SDA-2

**HYDROLOGIC ZONE:** Basin Fringe Hydrologic Zone, minimum lot size per Code is 12.5 acres per dwelling unit.

**FIRE PROTECTION:** Tesuque Fire District.

**WATER SUPPLY:** Shared Domestic Well

**LIQUID WASTE:** Conventional Septic System.

**VARIANCES:** Article III, § 2.3.6b.2, Height Restrictions for Dwellings or Residential Accessory Structures, of the Code and Section

3.8.2.d, Ordinance No. 2000-13 Tesuque Community Zoning District, Height on slopes and Ridgetops, to allow a 365 square foot addition to be 18' in height.

**AGENCY REVIEW:**

<u>Agency</u>	<u>Recommendation</u>
County Fire	Approved with Conditions

**STAFF RECOMMENDATION:**

On November 19, 2015, the CDRC recommend approval of the requested variance of Article III, § 2.3.6b.2 (Height Restrictions for Dwellings or Residential Accessory Structures) of the Santa Fe County Land Development Code and of Ordinance No. 2000-13 Tesuque Community Zoning District (Height on Slopes and Ridgetops) to allow a 365 square foot addition to exceed 14' in height on a ridgetop.

If the decision of the BCC is to approve the Applicant's request, staff recommends imposition of the following conditions:

1. The Applicant shall screen the structure to protect and enhance the visual appearance of natural hillsides. (As per Article III, § 2.3.10a.3)
2. The structure and roof shall be constructed in non-reflective earth tone colors (As per Article III, § 2.3.8a.2).
3. The Applicant must obtain a development permit from the Building and Development Services Department (As per Article II, § 2).
4. The Applicant shall comply with all Fire Prevention Division requirements at the time of development permit Application. (As per 1997 Fire Code and
5. NFPA Life Safety Code).

**EXHIBITS:**

1. November 19, 2015 CDRC Meeting Minutes
2. Letter of request
3. Warranty deed
4. Legal notice
5. Article II, § 3 (Variances)
6. Article III, § 2.3.6
7. Article III, § 2.3.8a.2
8. Article III, § 2.3.10a.3

9. Ordinance 2000-13 Tesuque Community Boning District
10. Site photographs
11. Plans
12. Aerials of site and surrounding area
13. Letter of opposition



The key here is that the lot line adjustment plat has nothing to do with access, stated Mr. Karnes. Further, the lot in question was not created under the section of code that staff is citing. He offered that the County could place a note on the plat stating that approval of the plat does not affect, change or guarantee legal access.

Referring to the lot line adjustment plat, Chair Katz asked whether CR 133S was on pueblo land and Mr. Karnes confirmed it was. Further, he said they were unable to locate documentation showing the County has easement for that road. From reviewing the plat, Chair Katz suggested the road may have originally been more to the southeast than it is today.

Duly sworn, Phillip Wiegel, surveyor, said he found the survey done for the Department of Interior when Ms. Barnes purchased the property from Nambe Pueblo [Exhibit 1] and the boundary appeared to be closer to the edge of what was considered the road. He said it appeared it was the intent of the survey to take the property up to what was the considered the County road at the time. The CDRC reviewed the plat provided by Mr. Wiegel.

There were no other speakers on this case and Chair Katz closed the public hearing.

Ms. Lucero confirmed that staff's concern is that the easement fails to connect to the County road. Chair Katz suggested the boundary of the County road could be the boundary of the subject project. He proposed the gap had to do with the usage of the road but the survey appears to clarify the issue. Ms. Lucero reviewed the plat and said it was unclear whether the boundary for parcel D actually goes up to the County road.

Member Booth moved to approve the appeal of the Land Use Administrator's decision with the staff conditions and place a note on the plat that this does not affect change or guarantee legal access. Member Gonzales seconded and the motion passed by unanimous [7-0] voice vote.

- D. CDRC CASE # V 15-5270 Kathleen Kaupp Variance.** Kathleen Kaupp Applicant, Michael Henry, Agent, request a variance of Article III, Section 2.3.6b.2 (Height restrictions for dwellings or residential accessory structures) of Ordinance 1996-10 (the Code) and Section 3.8.1.d of Ordinance No. 2000-13 Tesuque Community Zoning District (Height on slopes and ridgetops) to allow a 365 square foot accessory structure addition to exceed 14 feet on a ridgetop on 2.82 acres. The property is located at 7 Thorpe Way, within the Bishops Lodge Estates Subdivision, within Section 6, Township 17 North, Range 10 East (Commission District 1)  
[Exhibit 2: David Dougherty email to County Staff opposing the variance;  
Exhibit 3: Santa Fe County Fire Department memo]

Case manager, John Lovato presented the staff report as follows:



"The subject lot is part of the Bishop's Lodge Estates Subdivision which was created in 1988, and is recognized as a legal lot of record. Currently, there is an existing residence, garage, and studio on the property. The residence is 4,638 square feet and was permitted in 1995. In 2005, the Applicant obtained a permit for a 1,215 square foot garage/studio. The residence was approved at 14 feet in height from finished floor grade, and the garage/studio was approved at 14 feet in height from final cut grade.

"The Applicant wishes to construct a 365 square foot addition to the existing garage/studio for storage. The applicant's studio and proposed addition are located on a ridgetop. The proposed addition is 18 feet in height with a flat roof and located on the western portion of the property. The maximum allowable height for ridgetops is 18 feet for a pitched roof and 14 feet for a flat roof. The Applicants property drops in elevation on the western portion of the property. Therefore, the Applicant is seeking a variance of the height requirements in order to meet the current height of the existing structure.

"The Applicant states, a variance is needed due to the topography of the land and wants the existing structure and proposed addition to remain on one level. The Applicant states that having steps is difficult and would make it impossible to access.

"Staff has inspected the site and has determined that this is another locations on the north side of the garage/studio to construct the proposed addition to meet height requirements. The applicant has chosen to place the addition on the southwest portion of the property with greater slopes."

Mr. Lovato said Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request. Staff recommends denial of a variance of Article III, § 2.3.6b.2 of the Santa Fe County Land Development Code and of Ordinance No. 2000-13 Tesuque Community Zoning District to allow a 365 square foot addition to exceed 14 feet in height on a ridgetop.

If the decision of the CDRC is to approve the Applicant's request, staff recommends imposition of the following conditions:

1. The Applicant shall screen the structure to protect and enhance the visual appearance of natural hillsides. (As per Article III, § 2.3.10a.3)
2. The structure and roof shall be constructed in non-reflective earth tone colors (As per Article III, § 2.3.8a.2).
3. The Applicant must obtain a development permit from the Building and Development Services Department (As per Article II, § 2).
4. The Applicant shall comply with all Fire Prevention Division requirements at the time of development permit Application. (As per 1997 Fire Code and NFPA Life Safety Code).



There were no question of staff and Chair Katz opened the public hearing.

Under oath, Michael Henry, architect for the applicant, said the variance is for four feet of a proposed storage area with a studio on the property. The applicant has made every effort to make her house, garage and studio handicap accessible and it is with that in mind the request is being made. The applicant has difficulty with stairs.

Mr. Henry reviewed the packet exhibits noting the site is out of the western views, and the dominant ridge is to the east where the addition is proposed with the result that the construction will never be seen from either the east or north.

Mr. Henry said the proposal will have minimal visual impact to the neighborhood and as such is a minimal easing of the requirements. He said the applicant agrees to the staff-imposed conditions.

Chair Katz asked why the addition could not be placed on the north side and Mr. Henry responded it was within the view corridor of the main house and the courtyard.

Mr. Henry said the addition will be even with the existing roofline.

There were no other speakers on this case and the public hearing was closed.

Member Anaya moved to approve the variance with the staff-imposed conditions. Member Lopez seconded and the motion passed by majority [4-2] voice vote with Members Booth and Martin voting against.

~~**CDRC CASE # S 08-5441 Tierra Bello Subdivision Phase 2 and Phase 3 Preliminary and Final Plat and Development Plan. Joe Miller, Applicant, Danny Martinez, Agent, request Preliminary and Final Plat and Development Plan Approval for Phase 2 and Phase 3 of the Tierra Bello residential subdivision to create 12 residential lots within a previously approved Master Planned 73 lot residential subdivision. The property is located in Eldorado at the Northeast intersection of Avenida de Compadres and Spur Ranch Road, south of Avenida Eldorado, within Sections 24 and 25, Township 15 North, Range 9 East, (Commission District 5)**~~

Development Review Team Leader, Vincente Archuleta read the case caption and presented the staff report as follows:

~~"On May 14, 2013, the Board of County Commissioners approved the Master Plan for the 73-lot residential subdivision consisting of eight phases on 263.77 acres and Preliminary Plat, Final Plat and Development Plan for Phase 1, which consisted of nine lots of the Tierra Bello subdivision.~~

~~"The Applicant now requests Preliminary and Final Plat and Development Plan Approval for Phase 2 and Phase 3, which will consist of a total of 12 residential lots, one being an affordable lot, on 48.48 acres. Lot sizes range from 2.75 acres~~

Date: 8.27.2015

Memo To: Mr. John Lavato  
Development Review Specialist  
Santa Fe County Land Use  
102 Grant Ave  
Santa Fe, NM 87504  
Email: [jlavato@santafecountynm.gov](mailto:jlavato@santafecountynm.gov)  
Tel: 505 986 6228

From: Kathleen V. Kaupp, Trustee  
Kathleen V. Kaupp Qualified New Mexico  
Personal Residence Trust  
7 Thorpe Way  
Santa Fe, NM 87506  
Email: [kaupp.kitty@gmail.com](mailto:kaupp.kitty@gmail.com)  
Tel: 202 255 0952

Re: Lot 11 Bishops Lodge Estates  
7 Thorpe Way  
Santa Fe, NM 87506

Architect: Michael Henry

Re: Request for Relief through the Variance Process for 14'  
Height Restriction to 18' Height for Addition to Existing  
Studio/Garage

I am requesting a variance from the 14 foot height restriction as prescribed by the county of Santa Fe, NM, for a maximum height to 18 foot for an addition to an existing studio/garage, at my home at 7 Thorpe Way, Santa Fe, NM 87506.

The addition, approximately 360 sf, is intended to be used primarily as storage of art materials but will be used for hanging and viewing art as well. The addition built with a parapet height of 14 ft. creates a finished floor 42" lower than the finished floor of the existing adjacent studio/garage. This condition necessitates 6 steps leading down into the storage room.

The existing house and garage/studio were both designed and built in 2007 to accommodate full accessibility with no level changes or steps. There are no sills at any of the interior door ways, nor curbs at the showers. The floors are on the



same elevation through out both structures. The purpose of this was to create full handicap accessibility for aging in place.

The 6 steps down into the storage room is a hardship for the intended use. Large canvases, ceramics and other art materials will need to be placed in this storage area. The introduction of steps would be most difficult, if not impossible, in the overall design of the existing house and studio. I will be 73 years old in December and intend to continue my work as an artist. Access from the existing finished floor of the studio is desired & needed. The request for a variance to allow 18' parapet would eliminate the need for the 6 stairs.

I, therefore, am requesting a variance from 14' to 18' maximum height.

Michael Henry is the architect of record.

Sincerely

A handwritten signature in cursive script, reading "Kathleen V. Kaupp".

Kathleen V. Kaupp

WARRANTY DEED

Kathleen V. Kaupp, an unmarried woman, for good and valuable consideration, grants to Kathleen V. Kaupp, as Trustee of the Kathleen V. Kaupp Qualified New Mexico Personal Residence Trust, under an agreement dated May 15, 2015, whose address is 7 Thorpe Way, Santa Fe, New Mexico, 87506, the following described Santa Fe County, New Mexico, real estate / real property:


All of Lot 11 of "Bishops Lodge Estates", as shown on plat of survey by James J. Medrano, dated September 1, 1988, and recorded in Plat Book 200, Pages 22-24, records of Santa Fe County, New Mexico, \*

SUBJECT TO: Reservations, Restrictions, Easements and Encumbrances of record, and unpaid property taxes,

with warranty covenants.

*No Property Tax Affidavit is required pursuant to NMSA 1978, Sec. 7-38-12.1 D (15) [2003].*

WITNESS my hand and seal this 5<sup>th</sup> day of June, 2015.

  
Kathleen V. Kaupp

\*

BEING AND INTENDED TO BE the same Lot 11 referenced in (i) the *Warranty Deed*, dated August 13, 1996, and recorded on August 15, 1996, in Book 1296, Page 793, in the records of Santa Fe County, New Mexico, (ii) the *Warranty Deed*, dated March 18 (23), 1999, and recorded on May 31, 1999, in Book 1622, Page 149, in the records of Santa Fe County, New Mexico, and (iii) the *Quitclaim Deed*, dated April 30, 1999, and recorded on May 19, 2004, as Instrument # 1328899, in the records of Santa Fe County, New Mexico



ACKNOWLEDGEMENT

DISTRICT OF COLUMBIA     )  
  ) ss:  
  )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of June, 2015, by Kathleen V.

Kaupp.

[SEAL]

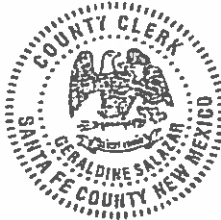
  
(Notary's Signature)

Timothy A. Burr  
(Notary's Printed Name)

Notary Public in and for the  
District of Columbia

My Commission Expires:


2/14/17



COUNTY OF SANTA FE     )  
STATE OF NEW MEXICO     ) ss

WARRANTY DEED  
PAGES: 2

I Hereby Certify That This Instrument Was Filed for  
Record On The 9TH Day Of June, 2015 at 12:12:24 PM  
And Was Duly Recorded as Instrument # 1766503  
Of The Records Of Santa Fe County

Deputy  County Clerk, Santa Fe, NM

Witness My Hand And Seal Of Office  
Geraldine Salazar

REC'D CLERK RECORDED 06/05/2015

CERTIFICATION OF POSTING

I herby certify that the public notice posting regarding Land Development

Case # V15-5270 was posted for 21 days on the property beginning

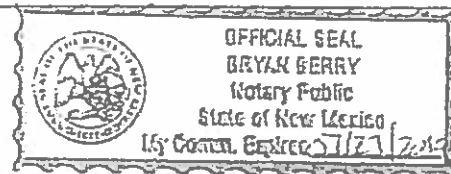
The 22 day of October \*\*

  
Signature

\*Photo of posting must be provided with certification

\*\*PLEASE NOTE: Public notice is to be posted on the most visible part of the property. Improper legal notice will result in re-posting for an additional 21 days. It is the applicant's responsibility to ensure that the notice is on the property for the full 21 days.

STATE OF NEW MEXICO }  
COUNTY OF SANTA FE }



The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of

October, 2015, By Michael Henry

  
Notary Public

My Commission Expires:

07/27/2019



**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only, No Insurance Coverage Provided)

PS Form 3800, August 2009

**SANTA FE, NM 87506** **AL USE**

Postage: \$15.00 0574 03

Certified Fee	\$2.80
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$15.00

Postmark Here

Total Postage & Fees: \$15.00 10/23/2015

Sent to: **RESURRECTION**

Street, Apt. No., or PO Box No.: **35 CIRCLE DRIVE**

City, State, ZIP+4: **SANTA FE, NM**

PS Form 3800, August 2009

**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only, No Insurance Coverage Provided)

PS Form 3800, August 2009

**LOS ALTOS, CA 94022** **AL USE**

Postage: \$15.00 0574 03

Certified Fee	\$2.80
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$15.00

Postmark Here

Total Postage & Fees: \$15.00 10/23/2015

Sent to: **WULFEL/POPE**

Street, Apt. No., or PO Box No.: **12840 LUCERO LANE**

City, State, ZIP+4: **LOS ALTOS, CA**

PS Form 3800, August 2009

**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only, No Insurance Coverage Provided)

PS Form 3800, August 2009

**LOS ANGELES, CA 90025** **AL USE**

Postage: \$15.00 0574 03

Certified Fee	\$2.80
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$15.00

Postmark Here

Total Postage & Fees: \$15.00 10/23/2015

Sent to: **MISCHKOWSKI**

Street, Apt. No., or PO Box No.: **23000 SHERBORN BLVD**

City, State, ZIP+4: **LOS ANGELES, CA**

PS Form 3800, August 2009

**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only, No Insurance Coverage Provided)

PS Form 3800, August 2009

**SANTA FE, NM 87506** **AL USE**

Postage: \$15.00 0574 03

Certified Fee	\$2.80
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$15.00

Postmark Here

Total Postage & Fees: \$15.00 10/23/2015

Sent to: **LUKAS**

Street, Apt. No., or PO Box No.: **4 DORSEY WAY**

City, State, ZIP+4: **SANTA FE, NM**

PS Form 3800, August 2009

**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only, No Insurance Coverage Provided)

PS Form 3800, August 2009

**SANTA FE, NM 87506** **AL USE**

Postage: \$15.00 0574 03

Certified Fee	\$2.80
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$15.00

Postmark Here

Total Postage & Fees: \$15.00 10/23/2015

Sent to: **GARRON**

Street, Apt. No., or PO Box No.: **40 LAMAR DR**

City, State, ZIP+4: **SANTA FE, NM**

PS Form 3800, August 2009

**CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only, No Insurance Coverage Provided)

PS Form 3800, August 2009

**WASHINGTON, DC 20003** **AL USE**

Postage: \$15.00 0574 03

Certified Fee	\$2.80
Return Receipt Fee (Endorsement Required)	\$0.00
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$15.00

Postmark Here

Total Postage & Fees: \$15.00 10/23/2015

Sent to: **KROPP/PHOSKIN**

Street, Apt. No., or PO Box No.: **417 C STREET SE**

City, State, ZIP+4: **WASHINGTON, DC**

PS Form 3800, August 2009

LEGAL # 89275

CDRC CASE # K 15-5270

NOTICE OF PUBLIC HEARING

Notice is hereby given that a public hearing will be held to consider a request by Kathleen Daupp, Applicant, Michael Henry, Agent, for a variance of Article III, Section 23.66.2 (Height restrictions for dwellings or residential accessory structures) of the Code and Section 3.6.1.d of Ordinance 2000-13 Tesuque Community Zoning District (Height on slopes and ridgetops) to allow a 365 square foot accessory structure addition to exceed 14 feet in height on a ridgetop. The property is 2.82 acres and located at 7 Thorpe Way, within The Bishops Lodge Estates Subdivision, within Section 6, Township 17 North, Range 10 East (Commission District 1).

A public hearing will be held in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on the 19th day of November 2015, at 4 p.m. on a petition to the County Development Review Committee, and on the 12th day of January 2016, at 5 p.m. on a petition to the Board of County Commissioners.

Please forward all comments and questions to the County Land Use Administration Office at 986-6225.

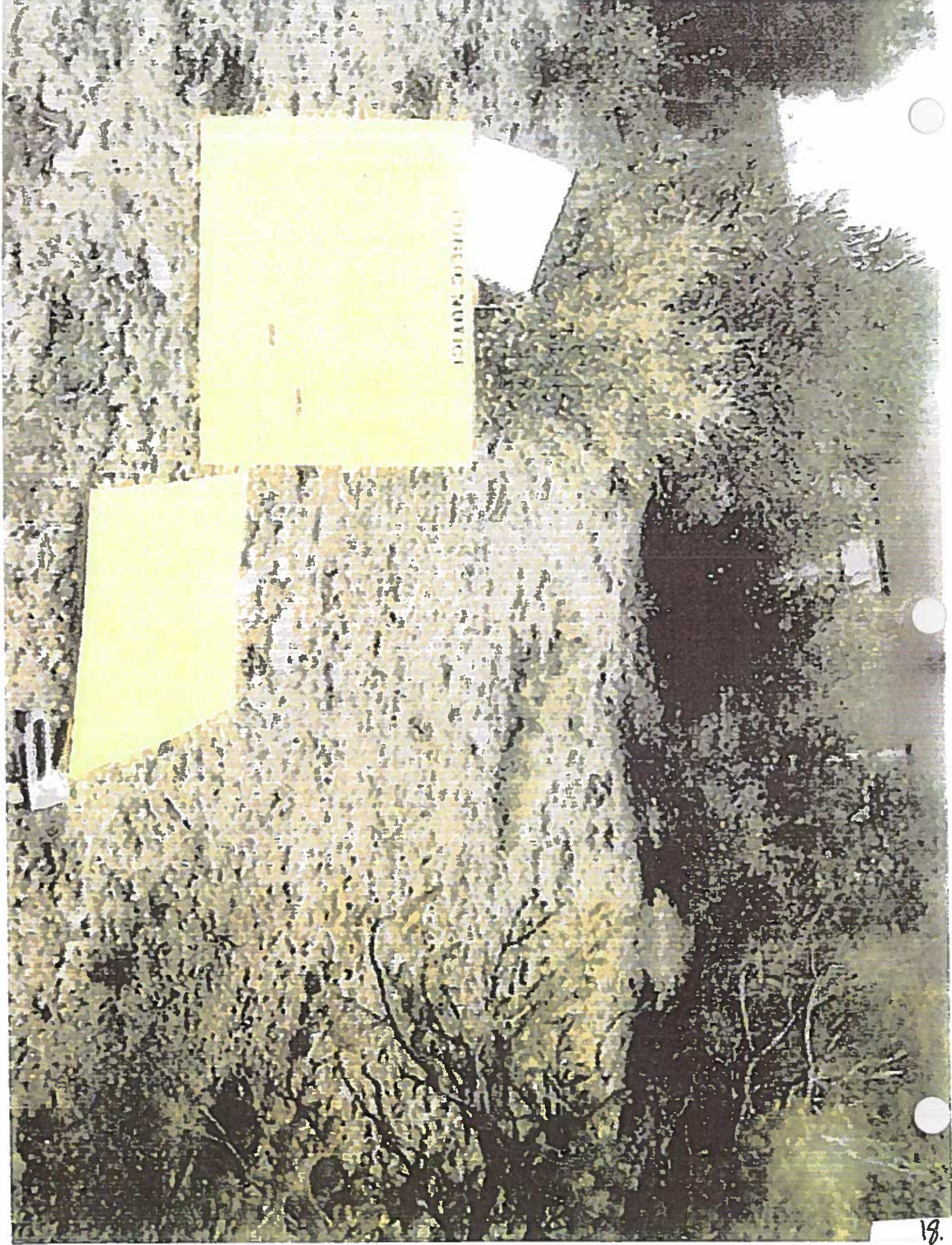
All interested parties will be heard at the Public Hearing prior to the Commission taking action. All comments, questions and objections to the



proposal may be submitted to the County Land Use Administrator in writing to P.O. Box 276, Santa Fe, New Mexico 875-4-0276; or presented in person at the hearing.

Published in The Santa Fe New Mexican on October 29, 2015.







PUBLIC NOTICE







PUBLIC NOTICE



**2.5 Zoning**

In connection with the review of an application for a development permit with respect to matters described in the New Mexico Statutes concerning zoning, the procedures concerning zoning matters set forth in the New Mexico Statutes, as amended from time to time, shall apply in addition to the review procedures provided in the Code. The time limits established in this Article II may be extended if required, in order to comply with the procedures concerning zoning matters.

**2.6 Subdivisions**

In connection with review of an application for a development permit with respect to matters described in the New Mexico Subdivision Act, as it may be amended from time to time, the procedures for review provided for in Article V of the Code and the New Mexico Subdivision Act shall apply in addition to the review procedures provided in this Article II of the Code. The time limits established in this Article II shall be extended if required in order to comply with the procedures concerning subdivision matters.

**2.7 Other Requirements**

The time limits set forth in this Article II shall be extended in order to comply with other provisions of the Code providing for time limits in connection with reviews and requirements under the Code.

## SECTION 3 - VARIANCES

**3.1 Proposed Development**

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

**3.2 Variation or Modification**

In no case shall any variation or modification be more than a minimum easing of the requirements.

**3.3 Granting Variances and Modifications**

In granting variances, and modifications, the Board may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

**3.4 Height Variance in Airport Zones**

All height variance requests for land located with approach, Transitional, Horizontal and Conical surfaces as described within Map #31 A, incorporated herein by reference, shall be reviewed for compliance with Federal Aviation Administration Regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the



2.3.4b Any development site on a ridgetop must be set back from the shoulder toward the crest of a hill or ridge pursuant to Article VII, Section 3.4.1 d. Performance Standards for Development Site.

2.3.5 Shared points of ingress and egress to adjacent development sites is encouraged, unless it can be demonstrated that additional or separate access is necessary. Design standards and submittal requirements as set forth in Article III, Section 4.4.3a, for Driveway Access, and Article VII, Section 3.4.4, Roads and Driveways shall be applied.

2.3.6 Height Restrictions for Dwellings or Residential Accessory Structures

2.3.6a. For the purpose of this Section, height means the vertical distance from any point on the upper surface of a building or structure to the natural grade or finished cut grade, whichever is lower, directly below that point.

2.3.6b. The height of any dwelling or residential accessory structure shall not exceed twenty-four feet (24'). The vertical depth of fill materials from the natural grade, with or without retaining walls, shall be considered as a component of the building or structure; this depth shall be included in the determination of building height. Chimneys may extend three feet (3') beyond the height limitation. In addition:

1. The height of any dwelling or residential accessory structure located on land which has a natural slope of fifteen percent (15%) or greater shall not exceed eighteen feet (18'). The vertical distance between the highest point of a building and the lowest point of a building at natural grade or finished cut grade, whichever is lower, shall not exceed thirty feet (30'). The Code Administrator may waive this requirement if the portion of the structure located on land over 15 % slope is incidental to the entire site.
2. On ridgetops as defined in Article X of the Code, only one story buildings are allowed. On ridgetops, the height of any dwelling or residential accessory structure shall not exceed fourteen feet (14'), except one story pitched roof style buildings may be allowed a maximum height of eighteen feet (18') provided such roof can be screened from a public way and pursuant to a site visit and approval of the Code Administrator.
3. Structures for agricultural purposes shall meet the requirements of Article III, Section 1.

2.3.6c. Requests for residential accessory structures such as windmills and radio antennas to exceed the maximum height restrictions shall be reviewed for approval by the County Development Review Committee. When an exception to the height restrictions is desired, the applicant shall submit plans for the installation and operation of the accessory structure with a report explaining why the requested height of the structure is necessary for proper function. The County Development Review Committee shall consider: whether the requested structure is reasonably necessary to be on the proposed site; whether the applicant has demonstrated that the requested height is the minimum height necessary for the proposed structure to function properly, not to exceed a maximum height of forty-five feet (45'); and the size of the lot and impact on neighboring properties.

2.3.7 Terrain Management

All development of a lot, tract, or parcel shall be done in accordance with the Santa Fe County Land Development Code, Article VII, Section 3. Terrain Management.

EXHIBIT

6.

III - 3

### 2.3.8 Architectural and Appearance Standards

#### 2.3.8a. Purpose and Intent

These standards for architecture and appearance apply only to development sites where any portion of land has a natural slope prior to development of fifteen percent (15%) or greater and on ridgetops; they are designed to assure that buildings, roads, driveways, utilities, and other development blend into the natural landscape and conform to the existing natural topography, vegetation, and soils characteristics. The natural form, color, slope, and texture of the hills or mountains should be the dominant feature, not the built environment. The following standards apply to all new buildings and additions to existing structures which are located on natural slopes of fifteen percent (15%) or greater or on ridgetops:

- 1) Architectural styles are not regulated; however, buildings which fit the traditional or local building types, styles, and scale, as these vary throughout the County, are encouraged.
- 2) Neutral and darker shades of colors shall be used for exterior walls, facades, and roofs which blend with the natural foliage of the native trees or other vegetation or, where vegetation is sparse, with the natural earth tones of the soils on the building site. Roof colors visible from adjacent properties and all wall and facade colors shall be muted and of non-reflective or non-glossy materials with a Light Reflective Value (LRV) of less than forty (40) pursuant to manufacturers specifications. When such data is unavailable, compliance will be determined by a comparison of samples where data is available. This Light Reflective Value standard shall not apply within established Traditional Community Districts.
- 3) Pitched or shed roofs are allowed, provided they are within the height limitations set forth in Article III, Section 2.3.6, Height Restrictions.
- 4) Buildings should be designed using such techniques as variations in height and orientation and offset walls to reduce the visible mass or bulk.
- 5) Window and door glazing shall be non-mirrored with a Light Reflectance Value of forty (40) or less.
- 6) To minimize cuts and fills, buildings shall be designed to conform to the natural terrain by following contours, fitting into existing landforms, and solidly meeting the ground plane. Any pier foundations shall be enclosed so that exterior walls appear to meet the ground and shall not exceed the height limitations set forth in Article III, Section 2.3.6. For a structure built on a natural slope of over twenty percent (20%), the finished floor elevation at any point shall not exceed five feet (5') above the natural grade below that point. (See Article VII, Section 3.4.1, Terrain Management Performance Standards.)
- 7) Free standing walls and fences and retaining walls shall also be designed to conform to the natural terrain.
- 8) Multi-story buildings are prohibited on ridgetops.

2.3.8b. Reserve Section for future overlay districts for visual sensitivity which may be designated by the County.





### 2.3.9 Utilities

#### 2.3.9a Purpose and Intent

To minimize the visual scars created by trenching or the visual intrusion to the skyline by overhead installation of utilities across undeveloped terrain.

#### 2.3.9b Installation of new utilities in development shall meet the following standards:

- 1) All new and replacement water, gas, electric, telephone, television or other utilities, including both main and service lines shall be placed underground within designated utility corridors. Infill development in areas currently served by overhead electrical lines, where conversion to underground for single uses may create safety or service problems, may continue to use overhead lines subject to individual review and approval by the Code Administrator.
- 2) Utility trenches shall be placed within easements in or adjacent to road or driveway easements or rights-of-way except where alternate locations are required for gravity flow of water or sewer or where a significant reduction in line length and terrain disturbance would be achieved by cross country easements and trenching.
- 3) All utility installations must meet the design standards for grading and removal of vegetation and revegetation of utility trenches found in Article VII, Section 3, Terrain Management.
- 4) Reserve Section for location of multiple utilities within roadway easements.

### 2.3.10 Landscaping

#### 2.3.10a. Purpose and Intent

The standards and guidelines for landscaping are intended to promote three primary purposes:

- 1) The preservation of native vegetation. Native trees, shrubs and other natural vegetation stabilize steep slopes, retain moisture, prevent erosion, provide habitat for wildlife, play a role in the prevention of air and noise pollution, and enhance natural scenic qualities.
- 2) Revegetation of land disturbed in the development process:
  - a. to minimize erosion, runoff, dust, and other negative physical impacts associated with land disturbance;
  - b. to maintain and stabilize cut and fill slopes, and conceal raw soil from view.
- 3) Screening of development in areas of steep terrain and ridgetops to protect and enhance the visual appearance of natural hillsides.

#### 2.3.10b Preservation and Revegetation of Native Vegetation

- 1) Grading and clearing of existing native vegetation shall be limited to approved development sites. No significant tree may be removed from slopes greater than thirty percent (30%).
- 2) Cleared or graded areas which are not built on and cut and fill areas shall be revegetated to the approximate original density and type of vegetation existing prior to disturbance. Areas to be used for recreation or park landscaping or rural agricultural uses shall be excluded from this requirement.
- 3) Any transplantable tree that will be displaced by construction shall be the primary source of new vegetation required for screening, buffering or other

EXHIBIT

8.

III - 5

1 a. No Build and Buildable Areas

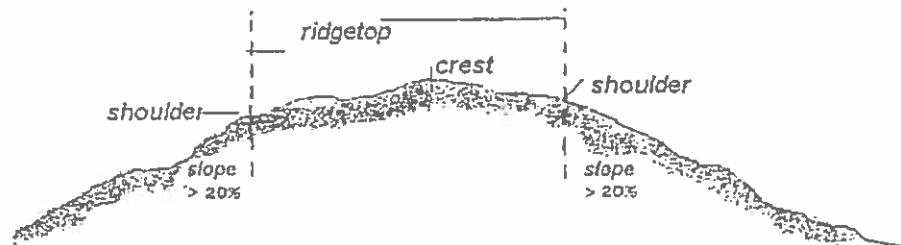
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2 Except as set forth in this Tesuque Community Zoning District Ordinance,  
3 No Build and Buildable Areas shall be determined according to the standards  
4 of Article III and Article VII, Section 3.4 of the Code.

5 b. Definitions

6 1) Ridgetop - the uppermost elevations, between the shoulder and crest, of  
7 any hill or ridge with a slope of twenty percent (20%) or greater. For  
8 purposes of these regulations, a ridgetop means the area measured  
9 horizontally from the shoulder across the crest to the parallel shoulder. A  
10 ridge formation which does not contain a development site of at least twelve  
11 hundred (1200) square feet will not be classed as part of the Buildable Area  
12 for purposes of construction of a primary residential structure. See also  
13 "Shoulder" defined below. Where a ridgetop measures more than three  
14 hundred feet (300') from shoulder to shoulder (a mesa), the ridgetop  
15 standards and requirements for architecture and buffers shall apply within  
16 one hundred fifty feet (150') of the shoulder of the ridge.

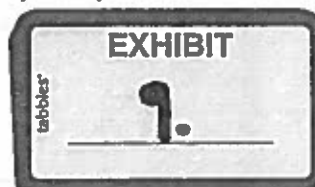
17 2) Shoulder - the line where the profile of the upper slope of an elevation  
18 (hill, ridge, mountain, escarpment, etc.) changes from 20% or greater slope  
19 to less than 20% slope.



21 c. These standards apply to all new buildings and additions to existing structures  
22 which are located on development sites where any portion of land has a natural  
23 slope prior to development of fifteen percent (15%) or greater and on ridgetops.  
24 They are designed to assure that buildings, roads, driveways, utilities, and other  
25 development blend into the natural landscape and conform to the existing natural  
26 topography, vegetation, and soils characteristics of Tesuque. The natural form,  
27 color, slope, and texture of the hills or mountains should be the dominant  
28 feature, not the built environment.

29 1) Exterior walls, facades and roofs shall be darker shades of the natural  
30 earth tones (dark tan, brown, or dark mauve) of the soils on the building site  
31 and shall blend with predominant year round color of the natural foliage of  
32 the native trees or other vegetation.

33 2) Roof colors and all wall and facade colors visible from adjacent  
34 properties or from US 84/285, CR 73 and CR 73A shall be muted and of  
35 non-reflective or non-glossy materials with a Light Reflective Value (LRV)  
36 of less than forty (40) pursuant to manufacturers specifications. When such  
37  
38



data is unavailable, compliance will be determined by a comparison of samples for which data is available.

3) For all new buildings and additions to existing structures which are located on development sites where any portion of land has a natural slope prior to development of fifteen percent (15%) or greater and on ridgetops, window and door glazing shall be limited to no more than thirty percent (30%) of a facade and shall be non-mirrored and the LRV shall be less than twenty (20), except:

i. glazing shall be limited to no more than fifty percent (50%) under portals eight feet (8') or deeper, or

ii. this subsection shall not apply to glazing on a south-facing facade where incorporated into a documented, design solar heating application equivalent to one for which the annual "Solar Saving Fraction (SSF)" exceeds sixty percent (60%). See for example "Passive Solar Design Handbook", Balcomb et al., DOE/Los Alamos National Laboratories, 1984.

#### d. Height on slopes and on Ridgetops

1) On ridgetops as defined in this Section, only one story buildings are allowed and the height of any structure shall not exceed fourteen feet (14'). Chimneys may extend three feet (3') beyond the height limitation.

2) The height of any dwelling or residential accessory structure located on land which has a natural slope of fifteen percent (15%) or greater shall not exceed eighteen feet (18'). The vertical distance between the highest point of a building and the lowest point of a building at natural grade or finished cut grade, whichever is lower, shall not exceed thirty feet (30'). The Code Administrator may waive this requirement if the portion of the structure located on land over 15 % slope is incidental to the entire site.

#### e. Landscaping

1). Indigenous evergreen trees at least five feet (5') tall and approximating the original density and type existing on the site prior to disturbance shall be used for screening and buffering of structures and cuts and fills, where required, in order to maintain year round screening.

2). Cut slopes with a slope or retaining wall closer than six feet (6') from the edge of a road or driveway, where the planting area for trees is limited, may be screened with a trellis supporting planted vegetation or some other similar means which creates a natural screened effect.

#### 3.8.3. Administrative approval

The Code Administrator may approve siting or design of a structure which minimally deviates from strict compliance with terrain management standards or architectural and appearance standards upon a finding that the proposed deviation results in a decrease of the visual or environmental impact of the development or reduces site grading. In making this finding, the Administrator shall consider existing topography, effects on native vegetation, soils and erosion potential, location of infrastructure, proposed site improvements and other proposed changes that would protect the public interest and further the intent of terrain management or architectural and appearance standards.



Existing 18' remain the same only with solid wall.

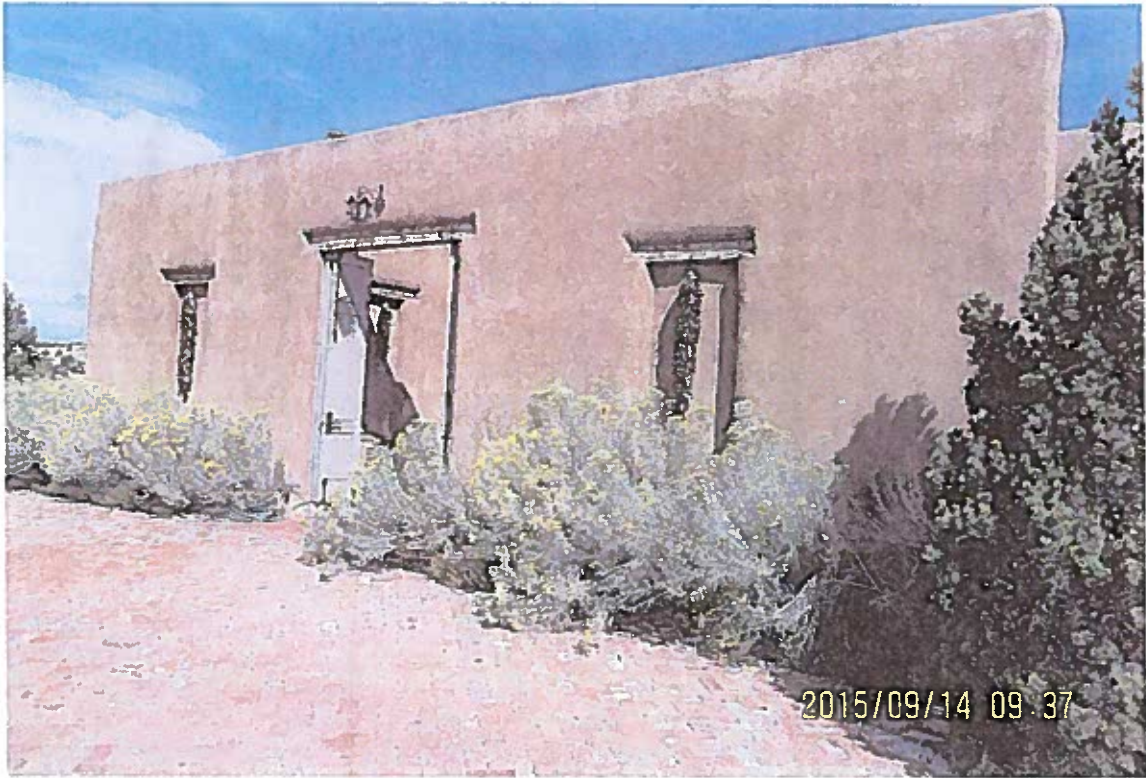






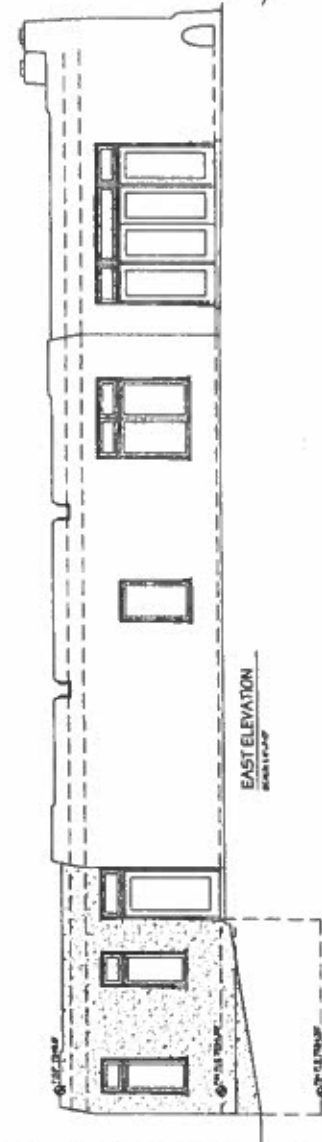
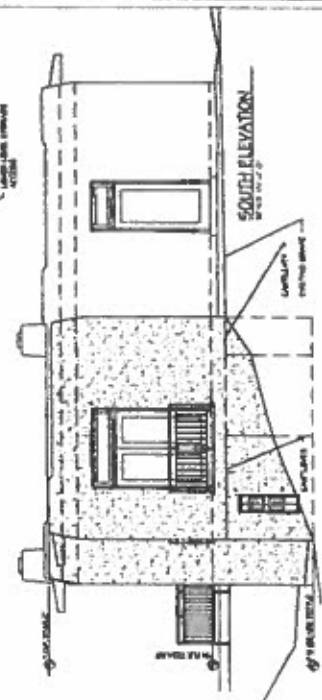
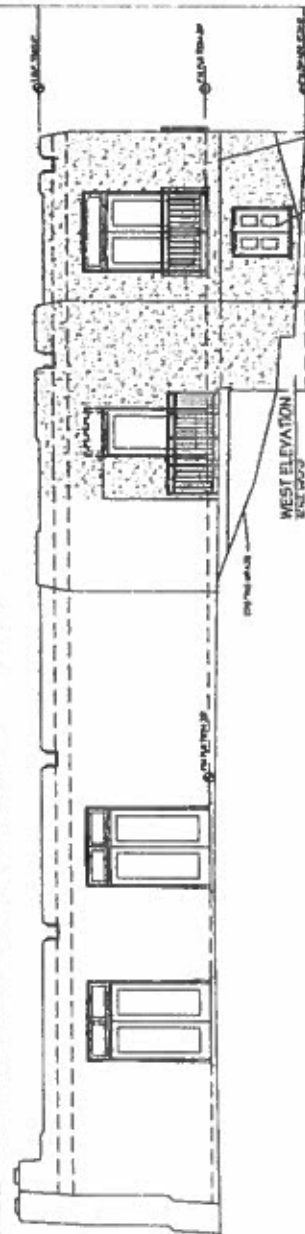
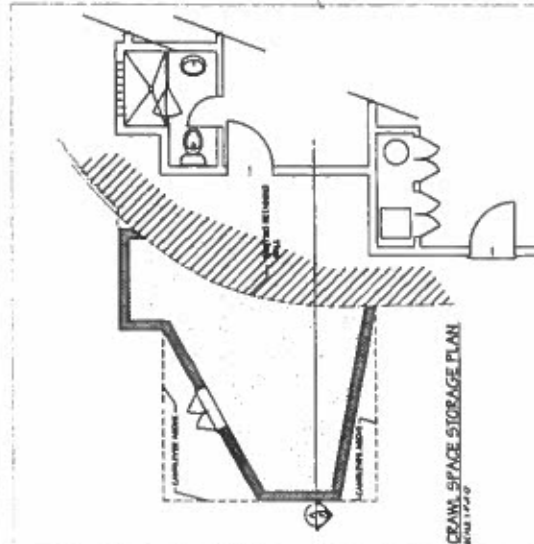
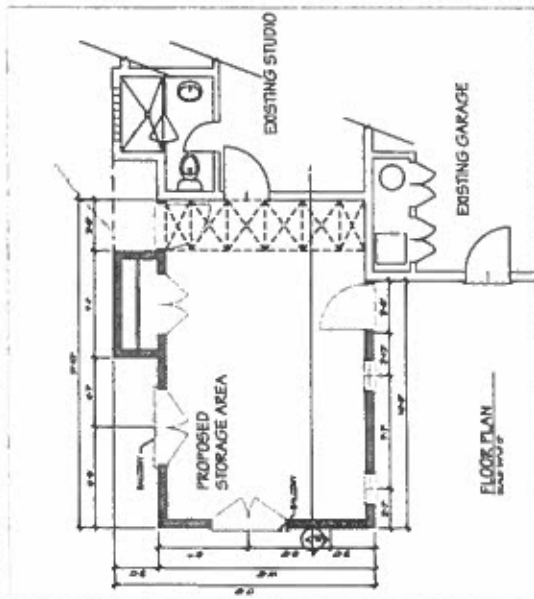
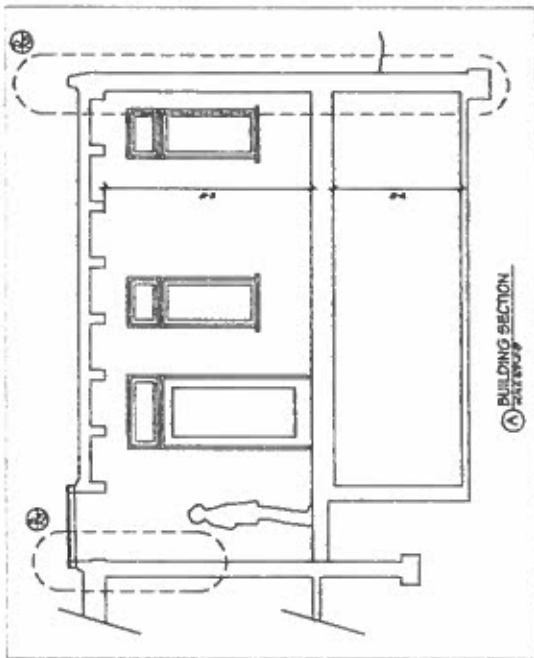






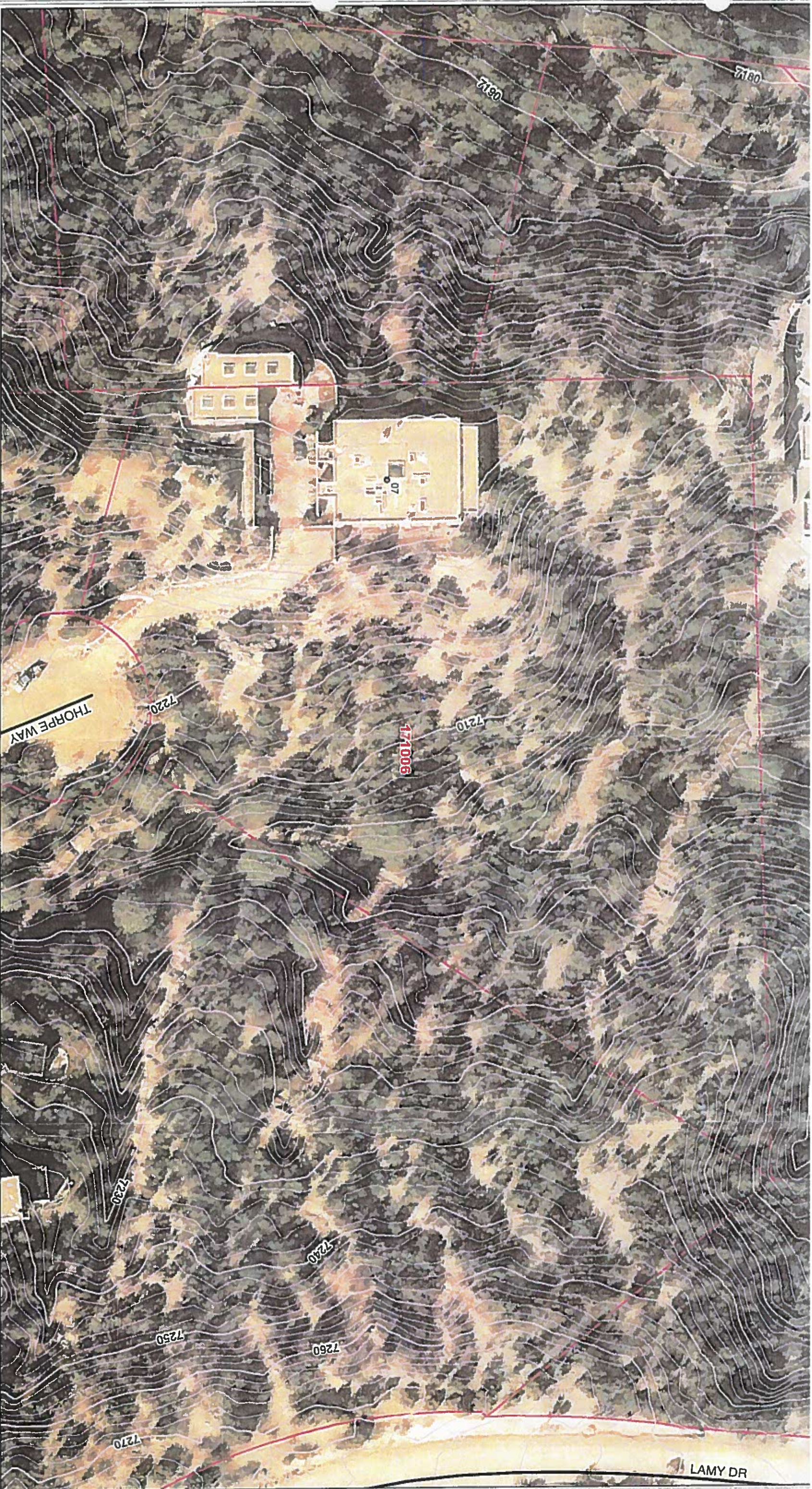












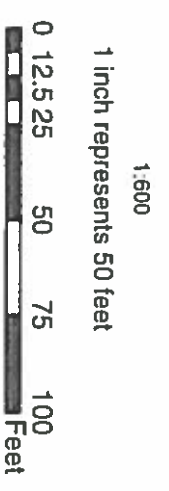
# Legend

ROADS

tabbles

**EXHIBIT**

**12.**



2014 Imagery  
2 FOOT CONTOURS

This information is for reference only.  
Santa Fe County assumes no liability for  
errors associated with the use of these data.  
User are solely responsible for  
confirming data accuracy.



September 3, 2015





John F. Lovato

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From: David Dougherty <daviddough@aol.com>  
Sent: Wednesday, November 18, 2015 9:31 PM  
To: John F. Lovato  
Cc: Margo Cutler  
Subject: 7 Thorpe Way variance request

John,

At our Tesuque Advisory Committee's request I went up and looked at the effect that the request might have. I do not believe it will particularly effect anyone in an adverse way. However that said, I do not see where there is a hardship. My understanding, which may be wrong, is that a variance has a particular place in the law for people who have no alternative. The owner has a beautiful house and I do not see a hardship created by not being able to add on a studio on a sloped area. The problem, I see, with allowing this is that where does it stop? The rules should be the rules. If people want the rules changed, then perhaps they should get the rules changed and not sneak behind them with a variance request where there is no hardship involved.

I appreciate your time in advising us about this matter.

Sent from my iPad by Wm. David Dougherty Office (505) 989-7741 Cell (505) 690-2722

